

2001 REPORT

ENVIRONMENTAL CRIMES BUREAU

For two decades, the Division of Criminal Justice Environmental Crimes Bureau (ECB) has investigated and prosecuted violations of the State's water pollution, air pollution, hazardous waste, solid waste and regulated medical waste laws, as well as traditional crimes that have an impact on public health and safety and the environment. Early on, the ECB prosecuted blatant violations of our environmental laws, which were prevalent for many years. Due to effective criminal and civil enforcement efforts, environmental crime is now far more discrete than the midnight dumpings of the 1980's. Now, environmental criminals illegally stockpile large amounts of toxic chemical waste in ways that endanger surrounding communities, or they discharge toxic materials into the air or the sewers. They also falsify records which they provide to regulatory agencies or customers to conceal their illicit conduct. The ECB's prosecutions and initiatives during 2000 and 2001 reflect how the ECB has responded to these trends, as well as to new issues which have arisen following the terrorist attacks on September 11, 2001.

In 2001, the ECB obtained fifteen (15) indictments and accusations. Successful ECB prosecutions in 2001 secured jail sentences totaling 10 years and more than \$1.2 million in criminal fines and restitution from criminal polluters. The ECB presently has six deputy attorneys general, fourteen state investigators and three support staff. All ECB SIs have received specialized training for handling environmental criminal investigations.

In addition to investigating and prosecuting cases on a statewide basis, the ECB continues to coordinate criminal enforcement activities conducted by County Prosecutors' offices with the Department of Environmental Protection (DEP) and Marine Bureau of the State Police. The ECB also provides technical and legal assistance and training to those offices. During 2001, County Prosecutors' Offices filed four (4) criminal complaints and obtained three (3) indictments/accusations for environmental offenses.

Case Highlights/Significant Activities

A. Antiterrorism Initiative

Following the September 11, 2001 terrorist attacks, the ECB commenced an initiative to identify New Jersey chemical facilities that could sell potential precursor ingredients for weapons of mass destruction to terrorists. Because of the ECB's experience in investigating the chemical industry and the specialized training of its staff, it is ideally suited for such an initiative. The ECB identified over 1,000 companies and ECB investigators contacted the facility representatives to determine if any suspicious sales of chemicals had been made. SIs also alerted facility operators to contact SIs if the operators became aware of any suspicious sales in the future. The ECB worked closely with the FBI in the development and implementation of this initiative. The ECB concluded its initiative at the end of 2001. In addition to providing some valuable information to the FBI, the initiative alerted facility operators on the need to be more careful about who they sell their products to. Facility operators were uniformly supportive of our initiative and were pleased to see a

governmental agency doing it.

B. Air Pollution

Over the past two years, the ECB has commenced an air pollution initiative to target the most serious, chronic violators. In 2001, the ECB successfully prosecuted the State's most significant criminal air pollution case. In State v. Columbia Terminals, Inc. and State v. Stephen Fiverson (Accusation Nos. 01-08-576A & 575A), Columbia, a chemical reblending and repackaging company in Kearny, pled guilty to mixing chemicals with fuel to fire its industrial boiler, in violation of N.J.S.A. 26:2C-19f. The company also pled guilty to unlawfully storing hazardous waste in a 500,000 gallon above-ground storage tank, in eight tanker trailers and 100, 55 gallon drums in 17 box trailers. Columbia also pled guilty to water pollution charges and to theft for unlawfully obtaining payments from its insurance carrier to pay for the removal of hazardous waste from the above-ground storage tanks. Columbia president, Stephen Fiverson, pled guilty to an air pollution violation and to unlawfully disposing of hazardous waste in an industrial furnace and unlawfully storing hazardous waste. The Court imposed one of New Jersey's largest criminal fines ever in an environmental prosecution. Columbia paid \$775,000 in criminal fines and Fiverson paid \$225,000 in restitution. Moreover, Columbia was required to enter into an administrative consent order (ACO) with the DEP which requires Columbia to pay an additional \$300,000 in civil penalties and post \$500,000 in financial guarantees to address remediation issues at the site.

In State v. Morton International, Inc., defendant corporation pled guilty to an air pollution crime for violating its air pollution permit for a two year period between 1996 and 1998. The court imposed a \$130,000 fine/restitution.

C. Hazardous Waste/Solid Waste/Regulated Medical Waste

In State v. Meadowlands Plating, Inc., et al., (Indictment Nos. SGJ434-00-09(1) and SGJ434-00-9(2), defendant James O'Brien pled guilty to second degree abandonment of toxic pollutants, contrary to N.J.S.A. 2C:17-2a(2) and second degree theft, contrary to N.J.S.A. 2C:20-9. He also pled guilty to three accusations charging him with second degree theft. Under the plea agreement, O'Brien, who is scheduled to be sentenced in February 2002, will receive a 14 year State prison sentence. Co-defendants Canavari, Tarrant, and Marchese pled guilty to third degree theft and third degree unlawful storage of hazardous waste, contrary to N.J.S.A. 13:1E-9 and will together pay \$225,000 to U.S.EPA. for the cost of cleaning up the Meadowlands site. Between 1996 and 1998, defendants stored corrosive hazardous waste and wastewater treatment sludge in electroplating vats and tanks, in drums, and in roll off containers. At one time Meadowlands was one of the largest electroplating facilities in the State. Defendants also obtained over \$75,000 from a lending corporation for the purchase of equipment and fixtures, including pollution control equipment, and failed to use that money for that purpose as required by the U.S. Small Business Administration Authorization and Loan Agreement.

In State v. Triple A Circuits & LaManna (Indictment No. 22-05-00071-S), defendant LaManna was required to pay \$10,340 restitution to the owner of a facility where he had unlawfully

stored drums of reactive hazardous waste, contrary to N.J.S.A. 13:1E-9. He also had to pay \$1,000 to the New Jersey Spill Compensation Fund.

In State v. Frank's Sanitation, Denville Disposal & American Resource Recovery (Indictment No. 00-06-006-75-S), the Court sentenced each defendant to pay a \$5,000 fine for committing a theft involving the padding of bills for solid waste rolloff containers through the use of falsified billing documents. The Court also required co-defendant Pequannock Disposal to pay \$20,000 restitution to the victims of defendants' thefts.

In State v. Munir Khan and State v. 238, Inc. (Accusation Nos. 218-01 & 219-01) defendants pled guilty to abandoning boxes containing hundreds of syringes at a lot in Jersey City, contrary to N.J.S.A. 13:1E-48.20h(1), and the Court sentenced defendant Khan to pay \$19,000 in fines and restitution.

In State v. Walter Townsend (Indictment No. 01-09-00084-S), the State Grand Jury returned an indictment against defendant charging him with criminal mischief, contrary to N.J.S.A. 2C:17-3, for dumping truckloads of debris on Trenton City property near the Assunpink Creek.

D. Environmental Frauds

Another ECB initiative has been to identify those who undercut the environmental regulatory structure by submitting false information to regulatory agencies or their customers. In State v. Leeward Environmental, Louis Tucci and Randy DeLuca (Indictment No. 98-07-0044), the ECB obtained a guilty plea from one defendant to racketeering for operating a theft scheme involving the improper handling of contaminated soil from five separate remediation projects. Defendant Tucci was also sentenced for a related racketeering charge in State v. U.S. Remedial Services (Indictment No. 98-12-0085), which involved the theft of over \$8 million in performance and payment bonds for three separate environmental remediation projects. In 2001, Tucci received a five year State prison sentence and co-defendant DeLuca, received a five year State prison sentence for his involvement with Leeward. In 2000, co-defendant Charles Cotterell received a six year sentence for his role in the U.S. Remedial case. In 2001, the ECB continued its effort to prosecute individuals and companies that submit false information to the DEP. In State v. Tsungas Petroleum (Accusation No. 01-03-00315A), the ECB successfully prosecuted a corporation which submitted falsified underground storage tank forms to the DEP. In State v. Param Petroleum and Raj Badesha (Indictment No. 398-98-5), the ECB obtained a guilty plea from Param for misusing a \$73,000 site remediation loan it had received from the DEP and State Economic Development Administration.

E. Water Pollution

In 2001, the ECB continued its recreational water initiative which targets commercial vessels that discharge pollutants into State waters. In State v. Richard Moore and State v. Moore's Cruise Line, Inc. (Accusation Nos. A00-2-2060 and A00-2-2061), the ECB successfully prosecuted Moore and his company, Moore's Cruise Line, for discharging raw sewage from the "Royal Teal," an 85 foot party vessel, into Sandy Hook Bay. The Court sentenced them to pay total criminal fines and restitution of almost \$20,000. In 2000, the ECB had prosecuted another case, State v. Mohawk Fisheries, Inc. and State v. Gary Fagan (Accusation No. 00-01-0034A), for the discharge of raw

sewage into the Shark River by the “Big Mohawk III,” a 100 foot commercial fishing boat operating out of the Belmar Marina.

In 2001, the ECB, like the US EPA and many other states, brought actions against agriculture operations which cause serious water pollution problems. In State v. Salem Packing and Anthony Bonaccorso (Indictment No. 00-08-00116-S), the ECB successfully prosecuted Salem Packing Company, a Salem County slaughterhouse, and its owner for discharging blood and animal waste from slaughterhouse operations into a local stream. In State v. Joseph Johanson, et al. (Indictment No. 01-10-00466), the State obtained an indictment against Joseph Johanson, the owner of a swine farm in Salem County, for causing water pollution to discharge into a local stream for almost two years from a solid waste landfill he had created.

In 2001, the ECB also had two prosecutions for unlawful discharges into local sewer systems: State v. Param Petroleum and Raj Badesha (Indictment No. SGJ406-98-6) and State v. M & R Cleaning Services, Inc., et al. (Indictment No. 01-04-00026-S). In State v. Param & Raj Badesha, the Court sentenced Badesha to a five year probationary term and \$10,000 fines/restitution and sentenced Param to \$15,000 in fines and restitution for unlawfully discharging petroleum contaminated water from underground storage tanks into the sewer system, which seriously damaged the sewage treatment works. In State v. M & R Cleaning Services, et al., the State obtained an indictment against M & R, which operated a dry cleaning establishment in Bayonne, and its manager for unlawfully discharging a toxic pollutant, perchlorethylene, into the sewer system. The Court sentenced defendants to pay a total of \$1,500 in fines.